



# DECLARATION IN SUPPORT OF PETITION TO MAKE SPECIAL BASED ON AN INFRINGING PRODUCT ON THE MARKET

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am

X the inventor

☐ have the following interest or relationship to the above identified invention

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hereby declare the following:

That there is an infringing product or products actually on the market. One such product is that currently advertised for sale by Bluetake Inc., 525 Parriott Place, City of Industry, CA 91745. The device is currently being marketed and sold as a I-PHONE, Bluetooth Hi-Fi Sports Headphone. The infringing device has specifications and is produced as disclosed and claimed in my currently pending patent application.

A rigid comparison of the alleged infringing product and method of use with the claims of the application has been made, and that, in my opinion, some of the claims are unquestionably infringed.

## PROOF OF INFRINGEMENT

### FUNCTIONALITY:

#### FAWM

A transmitter plugs into the existing headphone jack to transmit an audio signal, from an audio source such as a portable cassette player, portable CD player, portable MP3 player, laptop or desktop computer and the like for wireless transmission to a headphone speaker receiver. (1FF)  
(Reference claim 1 and "BACKGROUND OF THE INVENTION" of both the original patent submittal and CIP.)

A FAWM user is not subjected to interference from any other FAWM users (i.e., in the same

way a wired system would prevent one user from hearing what the other user is listening to). (2FF)  
(Reference "BACKGROUND OF THE INVENTION" of the original patent submittal and CIP.)

#### Bluetake

A transmitter (called a "Audio Dongle") plugs into the audio jack of an audio device such as a portable CD player, portable cassette player, portable MP3 player, laptop or desktop computer to provide wireless transmission to a headphone speaker receiver (Bluetake calls it a "Sports Headphone"). (1FB)

The Bluetake system (called the "i-phono") prevents one user from interfering with any other "i-phono" users. (2FB)

#### SPECIFICATION:

##### FAWM Transmitter/Headphone Receiver

The FAWM radio frequency (RF) utilized is approximately 2.4 GHz. (1SF)  
(Reference "DETAILED DESCRIPTION" of original patent submittal and claim 1 of the CIP.)

The FAWM data rate used is approximately 1.4 Mbps (2SF)  
(Reference claim 1 of the CIP.)

The FAWM modulation technique used is called Spread Spectrum (3SF)  
(Reference "DETAILED DESCRIPTION" of original patent submittal and claim 1 of the CIP.)

The FAWM transmitter and receiver are both battery operated. (4SF)  
(Reference claim 1 of the CIP.)

##### Bluetake Transmitter/ Headphone Receiver

The Bluetake system uses a RF (radio frequency) of 2.4 –2.48 GHz. (1SB)

The data rate for the Bluetake system is 1.0 Mbps (2SB)

The modulation technique used in the Bluetake system is called Spread Spectrum (3SB)

The Bluetake transmitter and receiver are both battery operated. (4SB)

#### SUMMARY:

By observing the previously described functionality and specifications of the Fuzzy Audio Wireless Music (FAWM) system and Bluetake's "i-phono" system it is evident that Bluetake is infringing the US Patent Application No. 10/648,012. By observing the functionality items 1FF (the FAWM system) and 1FB, (the Bluetake system) it is clear that both perform the same function on the same devices. It is especially important to note that both devices are portable and utilize the

standard headphone jack.

Functionality items 2FF (the FAWM system) and 2FB (the Bluetake system) both prevent one user from interfering with another user. Furthermore, both systems operate as well as a wired system, but without the use of wires.

Specification items 1SF (the FAWM system), 1SB (the Bluetake system), 2SF and 2SB show that similar frequency and data rate are utilized.

Specification items 3SF (the FAWM system) and 3SB (the Bluetake system) prove that both systems utilize the spread spectrum modulation technique to provide a unique user code and reduce the probability of interference.

Specification items 4SF and 4SB show that both systems are battery operated to allow portability.

Please note that a wireless protocol exists to successfully design a short-range low power wireless system (i.e., a RF wireless system that operates within a range of 30 feet). A Special Interest Group (SIG) developed the protocol and the SIG called it "BLUETOOTH." The FAWM system adheres to the BLUETOOTH protocol for short-range low power wireless units ([www.bluetooth.com](http://www.bluetooth.com)). This protocol (or standard) is adhered to and described in both the original patent submittal and the CIP although the name BLUETOOTH was omitted. Bluetake's "i-phono" also adheres to the BLUETOOTH protocol (or standard).

#### SUMMARY INFORMATION REGARDING CLAIM 1 OF THE PATENT APPLICATION:

Claim 1 of the original patent submittal and the CIP specifies the unique method the FAWM utilizes to extract audio music from the existing standard headphone jack of audio music devices, such as portable CD players, portable MP3 players, portable cassette players, laptop and desktop computers, to convert the analog music signal (from the headphone jack) into a coded digital signal and transmit it to a receiver headphone speaker without the use of wires and without interference from other users.

As of the FAWM conception, no other communication system used front end transmitter electronics (i.e., A/D converter/CODEC) to convert the analog music signal (coming from the standard headphone jack of any of the audio music devices listed previously) to a coded digital signal for wireless transmission at a data rate of approximately 1.4 Mbps.

Furthermore, until the FAWM conception, spread spectrum technology was never applied to a communication system (both the transmitter and receiver) to provide a user of any of the above listed audio music devices the ability to hear music privately without the use of wires and without interference from other users. In short, no other individual FAWM user will hear the music of another FAWM user because of the secure wireless link spread spectrum technology provides.

Finally, until the FAWM conception, no other communication system applied an operating frequency of approximately 2.4 GHz (that adheres to the ISM/BLEETOOTH standard) to a system (i.e., the FAWM) that enables an individual to hear audio music with a headphone speaker, from the audio music devices previously listed, without the use of wires and without interference from other users.

All of the items just cited in claim 1 of the original patent submittal and CIP, have been duplicated by "Bluetake's" "i-phono" system. Their "i-phono" system functions the same as the FAWM system that preceded it.

I made a careful and through search of the prior art and have a good knowledge of the prior art. I have more than 20 years of experience in the electrical engineering business. I have over 8 years of experience in signal processing electronic communication products and methods of use. My schooling is B.S.E.E. (currently pursuing M.S.E.E.). Prior to filing the current patent application for wireless digital audio system, I had a search of prior art performed and a search was performed relative to the parent application on which the current CIP application depends. I believe that the current CIP patent application is allowable over the prior art currently in the File Wrapper and overcomes the previous examination rejections.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 10/23/04

  
C. Earl Woolfork